

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Walter M. Czura)	File No.: EB-11-AT-0083
)	NAL/Acct. No.: 201232480002
Licensee of Station WNFO)	FRN: 0009352337
Sun City Hilton Head, SC)	Facility ID No.: 70793
)	

FORFEITURE ORDER

Adopted: February 25, 2013**Released:** February 25, 2013

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of twenty-five thousand dollars (\$25,000) to Walter M. Czura, licensee of Station WNFO, Sun City Hilton Head, South Carolina, for willful and repeated violation of Sections 73.49, 11.35, and 73.3526 of the Commission's rules (Rules).¹ The noted violations and related proposed forfeitures involved Mr. Czura's failure to: (1) maintain an effective locked fence around the base of an antenna tower (\$7,000); (2) install operational Emergency Alert System (EAS) equipment (\$8,000); and (3) maintain and make available a complete public inspection file (\$10,000).

II. BACKGROUND

2. On March 8, 2012, the Enforcement Bureau's Atlanta Office (Atlanta Office) issued a Notice of Apparent Liability for Forfeiture and Order (NAL)² to Mr. Czura for violations found at his radio station. Mr. Czura submitted a response to the NAL requesting cancellation or reduction of the proposed \$25,000 forfeiture, because he asserts: (1) the complete public inspection file was located at the main studio;³ and (2) he promptly repaired the break in the antenna base fence and the EAS equipment.⁴

¹ 47 C.F.R. §§ 73.49, 11.35(a), 73.3526.

² *Walter M. Czura*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 2285 (Enf. Bur. 2012). A comprehensive recitation of the facts and history of this case can be found in the NAL and is incorporated herein by reference. The NAL also ordered Mr. Czura to submit a sworn statement that Station WNFO's base fence had been repaired, that its EAS equipment was operational, and that its public inspection file was complete.

³ Letter from Walter M. Czura to Douglas Miller, District Director, Atlanta Office, South Central Region, Enforcement Bureau, at 1 (Apr. 5, 2012) (2nd Czura Letter).

⁴ Letter from Walter M. Czura to Douglas Miller, District Director, Atlanta Office, South Central Region, Enforcement Bureau, at 1 (Apr. 2, 2012) (Czura Letter). The Czura Letter also complied with the directive in the NAL to affirm that Station WNFO now complied with the relevant FCC rules.

III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁵ Section 1.80 of the Rules,⁶ and the *Forfeiture Policy Statement*.⁷ In examining Mr. Czura's response, Section 503(b)(2)(E) of the Act requires that the Commission take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁸ As discussed below, we have considered Mr. Czura's response in light of these statutory factors, and find that a reduction of the forfeiture is not warranted.

4. We find that the evidence supports the Bureau's undisputed findings that, on July 27, 2011: (1) a portion of the fence surrounding the base of the antenna tower for Station WNFO(AM) was collapsed, allowing ready access to the base of the tower; (2) Station WNFO(AM) did not have operational EAS equipment; and (3) Station WNFO(AM) was unable to make available a complete public inspection file. Regarding the EAS and fencing violations, Mr. Czura responded to the *NAL* that the "small section of fence was immediately nailed up. I continually watch the area to make sure the fence is in its proper position" and the "operational readiness of the EAS equipment is up to the FCC standards."⁹ The fact that Mr. Czura may have taken corrective action regarding these violations after notification or inspection by the Commission does not mitigate the violations, because such action is expected.¹⁰

5. With respect to the public inspection file, Mr. Czura asserts that the Local Marketing Agreement (LMA) operator had the complete public inspection file, including "very detailed and voluminous" quarterly issues programs lists and "why she did not show them to you is beyond any explanation by me."¹¹ Mr. Czura provided no evidence corroborating the existence of his station's issues programs lists and other missing documents, so we are not persuaded that the station maintained a complete public inspection file. However, even if the station maintained a complete public inspection file, it is undisputed that the LMA operator failed to make available a complete public inspection file on July 27, 2011, and the Enforcement Bureau has imposed \$10,000 forfeitures for such violations.¹²

6. For the reasons stated above, we find no basis to cancel or reduce the proposed forfeitures and conclude that Mr. Czura willfully and repeatedly violated Sections 73.49, 11.35, and 73.3526 of the Rules¹³ by failing to: (1) maintain an effective locked fence around the base of an antenna tower; (2) install operational EAS equipment; and (3) maintain and make available a complete public inspection file. We therefore affirm the \$25,000 total forfeiture proposed in the *NAL*.

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. § 1.80.

⁷ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

⁸ 47 U.S.C. § 503(b)(2)(E).

⁹ Czura Letter at 1.

¹⁰ See, e.g., *International Broadcasting Corporation*, Order on Review, 25 FCC Rcd 1538 (2010).

¹¹ 2nd Czura Letter at 1.

¹² See, e.g., *Taylor Communications, Inc.*, Forfeiture Order, 26 FCC Rcd 12885 (Enf. Bur. 2011) (imposing forfeiture for failing to make public inspection file available); *Media East, LLC*, Forfeiture Order, 26 FCC Rcd 7618 (Enf. Bur. 2011) (imposing forfeiture for failing to make complete public inspection file available).

¹³ 47 C.F.R. §§ 73.49, 11.35(a), 73.3526.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's rules, Walter M. Czura **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for violations of Sections 73.49, 11.35, and 73.3526 of the Commission's rules.¹⁴

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's rules within thirty (30) calendar days after the release date of this Forfeiture Order.¹⁵ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.¹⁶ Walter M. Czura shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁷ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

5. Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.¹⁸ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

¹⁴ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 11.35, 73.49, 73.3526.

¹⁵ 47 C.F.R. § 1.80.

¹⁶ 47 U.S.C. § 504(a).

¹⁷ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

¹⁸ See 47 C.F.R. § 1.1914.

9. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Walter M. Czura at P.O. Box 6567, Hilton Head Island, SC 29938 and to his counsel, Robert V. Mathison, Jr., Law Offices of Mathison & Mathison, P.O. Box 5275271, Hilton Head Island, SC 29938.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director, South Central Region
Enforcement Bureau